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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

SPISICH, MARK

ART UNIT

PAPER NUMBER

1744

DATE MAILED: 03/12/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/629,721

Applicant(s)

POST ET AL.

Examiner

Mark Spisich

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 2-7, 9-11 and 14-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 8, 12, 13 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of the species of fig 12 in Paper No. 8 is acknowledged.
2. Claims 2-7, 9-11 and 14-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 8.

### ***Drawings***

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "212" has been used to designate both the plug and the ball (in figs 10-11) (and on page 16 of the specification). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### **Notice of Informal Examiner's Amendment**

The following changes have been made by the examiner: (1) – USP 6,178,584 – inserted after "1998," (page 1, line 4); (2) "88" (page 10, line 9) changed to – 83 --; (3) "70" (page 11, lines 11 and 15) changed to – 60 --; (4) "130" (page 13, line 11) changed to – 131 --; (5) "131" (page 13, line 15) changed to – 133 --; (6) "6" (page 13, line 24) changed to – 6A --; (7) "40" (page 14, line 27) changed to – 34 --; (8) "166" (page 15, line 8) changed to – 168 --; (9) "lets" (page 15, line 20) changed to – legs --.

### ***Double Patenting***

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the

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unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1,8 and 18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. Patent No. 6,178,584. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the noted patent anticipate the generic claims 1,8 and 18 of the instant application.

#### ***Claim Rejections - 35 USC § 112***

6. Claims 12,13 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 already recites that the handle has a "first end" and claim 12 further recites another "first end" (this time being tubular). Claim 12 is actually incorrect in that although the handle proper (230 in fig 12) is tubular, it has a separate element (handle connector 242) with a cylindrical rod portion (240) which is what is snap fit into the receiver and NOT the tubular first end of the handle. "At least one of the handles" (claim 18, line 13) is confusing in that claim 18 never recited plural handles. Applicant should review the claims for any additional informalities.

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***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Stetson (USP 2,304,127).

9. Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Rubin (USP 2,301,586).

10. Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by UK 406,211.

11. Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by FR 1,056,318.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rubin (USP 2,301,586) in view of Gruber (USP 5,556,470). The patent to Rubin discloses a cleaning apparatus (10) comprising a paddle (11), a receiver (32) carried on the paddle, a cleaning element (12) removable affixed to the paddle and a handle (30)

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having a first end pivotally mounted in the receiver. The patent to Rubin discloses the invention substantially as claimed with the exception of the particular type of receiver/handle connection. The patent to Gruber discloses a mechanism for pivotally coupling a plate (1) to a handle (10) and which is comprised of a "receiver" in the form of a clip (12) which allows a rod-shaped element (13) of the handle to snap into as well as pivot in the clip. It would have been obvious to one of ordinary skill to have modified the handle connection of Rubin as such as such a connection would be much easier to disengage.

14. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bonis (USP 5,603,138) in view of UK 406,211. The patent to Bonis discloses a device for cleaning vehicle windows which comprises a plurality of paddles (2a,4a,30,42a) which all have different peripheral shapes, a handle (6) which is removably and pivotally (about pin 10) connected to a surface of the paddles, connecting means formed on the paddles (5a) and the end (9,9a,10) of the handle (6) for releasable and pivotally connecting the handle to the paddles and a plurality of cleaning elements (stated that it may be replaced when dirty) which may be readily removed from the paddles. The patent to Bonis discloses the invention substantially as claimed with the exception of the elastic means. '211 discloses a window cleaner and wherein the cleaning element is removably secured to a paddle (1) by means of an elastic means (16). It would have been obvious to one of ordinary skill to have modified the device of Bonis as such since it is shown to be an art-recognized equivalent means for securing a window cleaning

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element to a paddle and also because it would be easier for the user to remove the cleaning element.


**Conclusion**

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Channel is further cited as being relevant to the coupling structure of figure 12.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (703) 308-1271. The examiner can normally be reached on M-Th (6-3:30), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J Warden can be reached on (703) 308-2920. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Mark Spisich  
Primary Examiner  
Art Unit 1744

MS  
March 6, 2003